

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO: 1:20-CV-1072**

MARTHA HOELZER and all
similarly situated individuals,

Plaintiff,

v.

THE BOARD OF GOVERNORS OF
THE UNIVERSITY OF NORTH
CAROLINA, THE UNIVERSITY OF
NORTH CAROLINA AT CHAPEL
HILL and RAYMOND FARROW, in
his individual and official capacity,
BARBARA J. STEPHENSON, in her
individual and official capacity,
DANIEL LEBOLD, in his individual
and official capacity, DAVID
ROUTH, in his individual and official
capacity, and DEBBIE DIBBERT, in
her individual and official capacity,

Defendants.

**DECLARATION OF
LINC BUTLER**

Under 28 U.S.C. § 1746, Linc Butler, under penalty of perjury, hereby
declares and states as follows:

1. I am over the age of eighteen, of sound mind, and otherwise
competent to make this Declaration. The facts set forth in this Declaration
are based on my personal knowledge.

2. I am the Sr. Associate Vice Chancellor for Human Resources and Academic Personnel at the University of North Carolina at Chapel Hill (UNC-CH).

3. I have also served as the Assistant Vice Chancellor for Human Resources at North Carolina A&T State University and as the Chief Human Resources Officer at North Carolina Central University.

4. Prior to these roles at other universities, I worked at the Office of Human Resources at UNC-CH in positions that focused on employment, classification, and compensation within the administrative and student affairs divisions.

5. The 2016 job posting for the position of Assistant Director of Development-Global Programs at UNC-CH stated that the position was classified as “EHRA Non-Faculty.” A true and accurate copy of the job posting is attached as Exhibit A.

6. The August 29, 2016 appointment letter appointing Martha Hoelzer to the position of Assistant Director of Development-Global Programs contained the statement: “Your employment is at-will, which means it is subject to continuation or discontinuation at any time at the discretion of the Chancellor or his/her designee, consistent with the University’s employment policies for EHRA Non-Faculty employees.” A true and accurate copy of the appointment letter is attached as Exhibit B.

7. The August 29, 2016 appointment letter also notified Hoelzer that her employment was subject to UNC-CH's Employment Policies for EHRA Non-Faculty Research Staff, Instructional Staff, and Tier II Senior Academic and Administrative Officers. The letter stated that these policies were attached to the letter and included a link for accessing the policies online.

8. The February 22, 2019 discontinuation letter stated that Hoelzer was being discontinued in accordance with the University's Employment Policies for EHRA Non-Faculty Research Staff, Instructional Staff, and Tier II Senior Academic and Administrative Officers. A true and accurate copy of the discontinuation letter is attached as Exhibit C.

9. To the extent that Hoelzer believed she was terminated as a result of discrimination or retaliation, she could have contested the termination by filing a grievance pursuant to UNC-CH's EHRA Non-Faculty Grievance Policy. A true and accurate copy of the policy is attached as Exhibit D.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 18th day of May 2022.

A handwritten signature in black ink, appearing to read "Linc Butler", is positioned above a horizontal line.

LINC BUTLER

Assistant Director of Development -Global Programs

Posting Information

Position Information

Department Home	V Chancellor - Development-250100
Working Title	Assistant Director of Development -Global Programs
Vacancy ID	NF0001665
Position ID	20010956
Salary Range From	59200
Salary Range To	94700
Salary shown to applicants	\$59,200 to \$90,000
Full-time/Part-time	Full-Time Permanent
Hours per Week	40
Is this an internal only posting?	No
Appointment Type	EHRA Non-Faculty
Position Posting Category	Development and Fundraising

Position Summary

The University of North Carolina has enjoyed a long-standing place among leaders in higher education since it was chartered in 1789 and opened its doors for students in 1795 as the nation's first public university. Ranked 32nd by U.S. News & World Report in its most recent ranking of global universities, and 42nd worldwide by the prestigious London Times Higher Education rankings of global universities, UNC has earned a reputation as one of the best universities in the world. Situated in the beautiful college town of Chapel Hill, NC, Carolina prides itself on a strong, diverse student body, academic opportunities not found anywhere else, and a value unmatched by any public university in the United States.

Carolina Development is proud of its donor-centered philosophy, pursuing activities that always respect the interests and intentions of the donor as well as the University. The organization's collaborative nature is a critical component to fulfilling our mission of raising private funds to benefit the university. UNC is in the early stages of launching a comprehensive campaign and is currently recruiting top national talent to join the team.

Carolina Development is seeking applications for the position of Assistant Director of Development for Global Programs. Reporting to the Director of Development for UNC Global, the Assistant Director will manage a portfolio of major gift prospects to support global programs and priorities for the University of North Carolina at Chapel Hill. This position will also oversee the Chancellor's Global Education Fund, in close coordination with the University Annual Fund. This unique position will also work collaboratively to develop strategy to increase and deepen relationships with key individuals,

Exhibit A

international alumni clubs, and donors to the Chancellor's Global Education Fund, both foreign and domestic.

The Assistant Director also serves as a primary liaison between UNC-Chapel Hill and UNC Global supporters and constituents, both domestic and those who are based in or reside outside the United States. The Assistant Director also works directly with members of the UNC Global Advisory Board and the Chancellor's Global Leadership Circle.

Educational Requirements

A Bachelor's degree.

Qualifications and Experience

Two to five years of development or related experience. Strong written and oral communication skills (English). An enthusiasm for fundraising in a comprehensive research university setting. Ability to work efficiently on multiple assignments involving faculty, volunteers, and donors. Willingness to travel domestically and, on occasion, work evenings and weekends.

Equal Opportunity Employer

The University of North Carolina at Chapel Hill is an equal opportunity and affirmative action employer. All qualified applicants will receive consideration for employment without regard to age, color, disability, gender, gender expression, gender identity, genetic information, national origin, race, religion, sex, sexual orientation, or status as a protected veteran.

Appointment Information**Proposed Appointment Date**

01/01/2016

Indicate proposed appointment length

At-will

Posting Information**Number of Posting Days**

30

Posting Open Date

10/26/2015

Posting Close Date

11/24/2015

Open Until Filled

No

Number of Requisitions associated with this recruitment

1

Special Instructions**Special Physical and Mental Requirements****Stimulus/ARRA Funded**

No

Quick Link

<http://unc.peopleadmin.com/postings/85771>

Posting Contact Information**Hiring Supervisor**

Daniel Lebold

Hiring Supervisor

Daniel Lebold

Search Committee Editor

Exhibit A

Search Committee Editor

Contact Name and Title Lisa Waldeck, HR Consultant

Contact Telephone or Email lisa_waldeck@unc.edu

Office of Human Resources Contact Information If you experience any problems accessing the system or have questions about the application process, please contact the Office of Human Resources at (919) 843-2300 or send an email to employment@unc.edu
Please note: The Office of Human Resources will not be able to provide specific updates regarding position or application status.

Waiver Information

General Information

Is a posting waiver requested for this posting?

Waiver Type

Please explain your use of Other Waiver Type

EEO Consideration

Information on Grant-related Waiver Requests

If you selected "Employment Pursuant to Grants" as the Waiver Type, please answer the following questions

Role

If you selected 'Other' from the Role drop down options above please explain.

Granting Agency

Project Title

Project Period

Candidate Information

In the fields below, fill out the necessary information about the proposed candidate.

How did you learn of this candidate?

If you selected 'Other' above, please specify how you learned of this candidate

Is this a current employee?

If yes, please enter the employee's PID number

Candidate First Name

Exhibit A

Candidate Last Name

Ethnicity - Hispanic or Latino Origin

Race

Gender

Recommended Salary

Waiver Comments

Comments

Advertising and Recruitment Plan

Advertising and Recruitment Plan

Where do you want to advertise this posting? National professional journal and newspapers, Regional professional journal and newspapers, Letters and announcements to schools, Professional meetings

Please designate which journals and sources in which you would like to advertise by-name
Chronicle of Philanthropy
Diverse Issues
Women in Higher Education
Association of Black Foundation Executives
Counsel for Advancement & Support of Education
Triangle Business Journal

Special Efforts: Please comment on special efforts the department will undertake to reach minority and female populations

Special Recruitment Activities:
Please note any special recruitment activities not noted above

Post To Inside Higher Ed Yes

Inside Higher Ed Categories Development / fund raising / alumni affairs
You may select more than one.

Posting Specific Documents

1. [Advertising Samples \(EPA\)](#) (PDF | 196 KB)

AD TEXT

Applicant Documents

Required Documents

1. Curriculum Vitae / Resume

Exhibit A

2. Cover Letter
3. List of References

Optional Documents

None

Supplemental Questions

Required fields are indicated with an asterisk (*).

1. * Please select the response below that describes your level of education that best or mostly closely satisfies the education requirements for this position.
 - Bachelor's degree in required discipline(s) listed or related field
 - Bachelor's degree in any field/discipline
 - Master's degree or Doctorate degree in required discipline(s) listed or related field
 - Master's degree or Doctorate degree in any field/discipline
 - None of the above - (disqualifying)

Search Committee Members

Name	Email	Chair?	Status
Daniel Lebold	daniel.lebold@unc.edu	Yes	approved
Niklaus Steiner	nsteiner@unc.edu	No	approved
Katie Lindner	lindner8@email.unc.edu	No	approved
Amanda Peyton Daniels	apdaniel@email.unc.edu	No	approved
Beatriz Riefkohlmuniz	riefkohl@email.unc.edu	No	approved
Thomas Ormsby	chris.ormsby@unc.edu	No	approved

Search Committee Rankings

Guest User

Guest User Credentials

- Username: gu610006
- Password: c9db04

Email Addresses of Guest User Recipients

- lbrown@mossandross.com

Workforce Profile

Workforce Profile

4E

Exhibit A

SSEG

Job Group	External Affairs & Comm.
Minorities - Factored Availability	15.73%
Minorities - Incumbency	23.81%
Minorities - Under Representation	No
Women - Factored Availability	74.20%
Women - Incumbency	71.43%
Women - Under Representation	No

119 Kiley St.
Chapel Hill, NC 27516

Dear Martha:

I am pleased to confirm that your appointment as Assistant Director of Development-Global Programs in University Development at The University of North Carolina at Chapel Hill has been approved by the appropriate University offices and we are looking forward to your joining us. As Assistant Director of Development-Global Programs, you will be classified as a Senior Academic and Administrative Officer (SAAO) Tier II and subject to all of the relevant human resources policies for employees in this category. The following outlines the specific details of your appointment -

Employment effective date: August 29, 2016

Employment status: Your employment is at-will, which means it is subject to continuation or discontinuation at any time at the discretion of the Chancellor or his/her designee, consistent with the University's employment policies for EHRA Non-Faculty employees.

Employment Policies: Your appointment will be subject to the *Employment Policies for EHRA Non-Faculty Research Staff, Instructional Staff, and Tier II Senior Academic and Administrative Officers* as presently defined and as they may be periodically revised and with other published University policies applicable to employees within your assigned job classification. A copy of the employment policies for EHRA Non-Faculty employees currently in effect is enclosed with this letter and is also available at any time by consulting the University's Office of Human Resources web site at <http://hr.unc.edu>. In addition, as an EHRA Non-Faculty employee, you are also subject to other policies of the University, including policies on discrimination, harassment, and conduct. You should consult the University and Administrative Policies web site at <http://policies.unc.edu> for more information and copies of individual policies.

Exhibit B

adopted by The University's Board of Governors and/or Board of Trustees.

Leave Accrual:

You will receive 24 days (192 hours) per year of annual (vacation) leave and 12 days (96 hours) per year of sick leave for full-time service. Both amounts are prorated for part-time schedules provided you maintain a half-time schedule (.5 FTE) or greater. Up to 30 days (240 hours) of annual leave will be carried forward each calendar year with any excess balance converted to sick leave at year end. Sick leave does not have a maximum accrual rate.

Leave Payout at Appointment End: Your leave payout is determined based on whether you have more or less than 24 months of leave-earning service with local or State government entities within North Carolina. For individuals employed more than 24 months by such entities, payout is up to 240 hours of your annual leave. For individuals who have been employed a total of 24 months or less, payout is calculated as one day for each month worked less the total number of leave days taken during the employment period. Sick leave is not paid out at appointment end, but is retained for a 5-year period and available in that time if you return to work with the State in a leave-earning position.

Background Check:

Appointment is conditional on satisfactory completion of the University's required background check process. In the event this process has not been fully completed at the time your appointment begins, this appointment may be rescinded if any remaining checks disclose information that in the University's judgment are sufficient to bar continued appointment. Before a final decision is made to rescind any appointment, the appointee will receive a copy of the information used in reaching this decision and will have an opportunity to provide clarifying information or proposed corrections to the background check results.

consulting the UNC Department of Public Safety web site at:
<http://www.dps.unc.edu/Parking/employee/employee.cfm>.

In order to meet critical benefit enrollment deadlines, you will need to attend a *"Welcome to Carolina"* orientation session within 30 days of the effective date of your appointment. *"Welcome to Carolina"* is a classroom-based orientation that provides an overview of the programs, services, policies and benefits offered by the University. You will be registered to attend this class by your Department's HR Representative; however, if you have not received orientation enrollment information within five (5) business days of beginning employment with the University, please immediately contact the EHRA Non-Faculty HR unit in the Office of Human Resources at 919-962-2897. If you are working at a location other than the UNC-Chapel Hill campus, please contact the EHRA Non-Faculty HR unit for orientation instructions.

Your appointment is conditional on your acceptance of the terms and conditions stated in this letter and as set out in the "EHRA Non-Faculty Appointee Certifications and Conditions of Employment" (Form AP-2a), which is attached. Please signify your acceptance of these terms and conditions by signing and dating the enclosed copy of this letter, the Form AP-2a and the Recommendation for Personnel Action (Form AP-2) and returning to my office no later than one week. A failure to return these signed documents within the indicated timeline may result in cancellation of your offer of appointment.

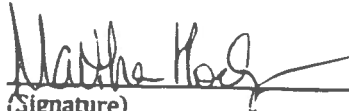
Accompanying this letter of appointment are "Equal Opportunity Employment Data Forms" which request information regarding gender and race/ethnicity information, Protected Veteran status and Individuals with Disability information. The University of North Carolina at Chapel Hill is an Equal Opportunity Employer. Collection of this information is in compliance with Federal laws and regulations, executive orders, and applicable State laws and regulations. The information that you submit will remain confidential and will be used by the UNC Chapel Hill Equal Opportunity and Compliance Office only for statistical and required reporting purposes. Completion of this data is voluntary; failure to provide this information will not adversely affect your candidacy or employment.

On behalf of University Development, I want to welcome you to The University of North Carolina at Chapel Hill.

Vice Chancellor for University Development

Enclosure: Employment Policies for EHRA Non-Faculty Employees
Form AP-2a (Non-Faculty)
Form AP-2
Equal Opportunity Employment Data Form

Acknowledgment and Acceptance by Appointee:


(Signature)

Date: Aug. 6, 2010

cc: Departmental Personnel File
School/Division Human Resources Officer (When required)
EHRA Non-Faculty Human Resources



THE UNIVERSITY
of NORTH CAROLINA
at CHAPEL HILL

OFFICE OF THE PROVOST

DEVELOPMENT AND DONOR RELATIONS

FedEx GLOBAL EDUCATION CENTER
Campus Box 5145
Chapel Hill, NC 27599-5145

T 919.962.6865
F 919.843.4814
global.unc.edu

February 22, 2019

Martha Hoelzer
2012 Sprunt Ave.
Durham, NC 27705

Dear Martha:

After careful consideration, I am writing to inform you that your "at-will" EHRA Non-Faculty appointment as Assistant Director of Development-Global is being discontinued and that your University employment will end effective February 22, 2019. You will be provided pay equal to 90 days of your base salary in lieu of the required advance notice that your appointment is being ended.

Your appointment is being ended and this notice provided in accordance with Section V of the University's Employment Policies for EHRA Non-Faculty Research Staff, Instructional Staff, and Tier II Senior Academic and Administrative Officers which is titled "Discontinuation of At-Will Appointments with Notice or Severance Pay in Lieu of Notice." You may view a copy of this policy on University's web site at: <http://hr.unc.edu/>. I can also provide you a copy of this policy at your request.

Any unused vacation and/or bonus leave hours will be paid out to you in your final paycheck in accordance with current University policies. Bonus leave if earned is paid out in full. There is no payout of accrued sick leave although this leave can be restored if you return to University employment in a leave earning status within 5 years of separation.

If you have questions regarding your benefits and any benefit continuation options following your end of employment with the University, you can contact Tarron Brandon in the Benefits Services Department of the Office of Human Resources. She may be reached via telephone at 919-843-8000 and/or email at tarron_brandon@unc.edu.

We sincerely thank you for all of your efforts on behalf of University Development and wish you well in your future endeavors.

Sincerely,

Daniel Lebold
Director of Development for Global Education

cc: Departmental Personnel File
EHRA Non-Faculty Human Resources

Vanessa Ragland, Director of EHRA Non-Faculty Human Resources
Vanessa_Ragland@unc.edu
919.962.1456

Exhibit C

**EHRA NON-FACULTY GRIEVANCE POLICY
OF THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL**

1. PURPOSE

The University is committed to fair and equitable treatment for all employees. Therefore, the University has established this Grievance Policy for the fair, orderly, and prompt resolution of work-related disputes for EHRA non-faculty employees. This policy provides for a formal process in order to address allegations that actions taken by management are impermissible under University policies. The strict legal standards of evidence do not apply in the use of this process, and the burden is on a Complainant to establish by a preponderance of the evidence that s/he is entitled to relief and that there is an appropriate and reasonable remedy available to address their Grievance.

2. DEFINITIONS

- a. **“Chair”** means the Chairperson of the EHRA Non-Faculty Grievance Committee as appointed by the Chancellor.
- b. **“Panel Lead”** means the individual designated by the Chair to lead a Panel appointed to hear evidence and rule on a specific Grievance filing. The “Chair” and “Panel Lead” may be the same individual when permitted by this policy.
- c. **“Committee Panel”** or **“Panel”** means a subset of the membership of the EHRA Non-Faculty Grievance Committee selected by the Chair for the purpose of hearing matters brought before the Committee.
- d. **“Complainant”** means a Covered Employee who files a written Grievance under the provisions of this policy.
- e. **“Complainant Reply Form”** means the standard University form that is used by a Complainant either to appeal certain grievance decisions, amend the initial Grievance, or reply to proposed outcomes.
- f. **“Covered Employee”** means a permanent employee of The University of North Carolina at Chapel Hill who is exempt from the State Personnel Act and is covered by the Employment Policies for EHRA Non-Faculty Research Staff, Instructional Staff, and Tier II Senior Academic and Administrative Officers of The University of North Carolina at Chapel Hill. Professional Librarians who are considered members of the General Faculty as set forth in the University’s Trustee Policies and Regulations Governing Academic Tenure ("Faculty Code") shall seek relief through the Grievance process provided for faculty and not the procedures set forth in this policy.
- g. **“Deadline”** means 5 p.m. on the date on which a specific timeline as set forth in this policy is reached. In instances where a deadline falls on a non-University business day, the deadline shall mean 5 p.m. on the first University business day following the original deadline date.
- h. **“Grievance(s)”** means a formal complaint against an administrator or other official of The University of North Carolina at Chapel Hill by a Covered Employee alleging that a decision or action has adversely affected his/her conditions of employment due to

impermissible reasons and for which the Covered Employee is seeking one or more specifically identified outcomes.

- i. **“EHRA Non-Faculty Grievance Form”** means the standard University form that is used by a Complainant to document his/her Grievance of an allegedly impermissible employment decision as covered under this policy.
- j. **“Observer/Support Person”** or **“Support Person”** is a person who is not acting as an attorney and who is not a necessary witness for either party, and who may assist either the Complainant or the Respondent during hearings or meetings in taking notes, organizing documentation, providing advice during breaks, or at the option of the parties, assisting with presentation of opening and closing statements in a Step 2 Hearing. For Grievances concerning discharge for cause, the Complainant may have an attorney in addition to or in place of a support person, and either or both of these parties may actively participate in all aspects of the Step 2 Hearing with or on behalf of the Complainant.
- k. **“Grievance Committee”** or **“Committee”** means a group of Covered Employees appointed by the Chancellor as members of the EHRA Non-Faculty Grievance Committee for the purpose of hearing Grievances brought under this policy.
- l. **“Grievance Coordinator”** or **“Coordinator”** means the University administrator in the Office of Human Resources who is designated to coordinate the EHRA Non-Faculty grievance process and to provide support to the Grievance Committee in carrying out its responsibilities.
- m. **“Preponderance of the Evidence”** means a judgment based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence. It does not rely on establishing facts beyond reasonable doubt, which is a higher standard of evidence than preponderance.
- n. **“Respondent”** is generally the next-level University official who exercises oversight of the individual whom a Complainant alleges made a decision or took an action that adversely affected his or her conditions of employment and that is alleged to have had an impermissible basis. If the decision was made or action taken by multiple University officials, the principal official who most directly serves as the next-level decision maker with respect to the actions or decisions in question will be designated by the University to be the Respondent. When specifically permitted by this policy or its associated procedures, the Respondent may be a designee who has been assigned to act on behalf of the next-level University official. The Grievance Coordinator shall determine the appropriate Respondent and confirm the appropriateness of any Respondent designees, when permitted.
- o. **“Respondent Reply Form”** means the standard University form that is used by a Respondent to respond to a Complainant’s Grievance, appeal certain grievance decisions, or respond to certain actions as covered under this policy.
- p. **“University Counsel”** means an attorney who is either a member of the Office of the University Counsel or an outside attorney designated by the Vice Chancellor and General Counsel to assist the University in relation to a Grievance. For Grievances concerning discharge for cause in which the Complainant is accompanied by an attorney, University

Counsel may actively participate in all aspects of the Step 2 Hearing with or on the behalf of the Respondent.

3. NON-RETALIATION

Covered Employees have the right to use or participate in this procedure free from threats or acts of retaliation, interference, coercion, restraint, discrimination, or reprisal. Retaliation against a person who in good faith files a Grievance, or who cooperates or otherwise participates in an investigation of a Grievance, is in violation of this policy and is strictly prohibited. Any person who retaliates against another person for exercising rights in good faith under this policy will be subject to appropriate and prompt administrative action by the University.

4. APPLICABILITY

This policy applies only to Covered Employees as defined in Policy Section 2.f. It does not apply to EHRA temporary employees, SHRA employees, faculty members who do not have primary EHRA non-faculty appointments, EHRA Professional Librarians who are considered members of the General Faculty as set forth in the Faculty Code, Tier I Senior Academic and Administrative Officer employees, student employees, or post-doctoral fellows.

5. CONSIDERATION OF GRIEVANCES

- a. The University provides a formal multi-step process by which a Grievance shall be considered once it is submitted within the deadlines established in Section 7. of this policy:
 1. “Step 1” provides an opportunity for a next-level University official to investigate and reply in writing to a Grievance within ten (10) calendar days of being provided the Grievance by the Grievance Coordinator. In the event the dispute is not satisfied at this step to the Complainant’s satisfaction, the Complainant has the opportunity to pursue an appeal to Step 2 of the process within ten (10) calendar days of being provided the reply from the Respondent. Grievances in regard to discharge for cause or subsequent to the completion of a harassment or discrimination administrative review shall bypass the Step 1 procedure and proceed immediately to Step 2.
 2. “Step 2” provides an opportunity for the Complainant to have a hearing before a Grievance Committee Panel with the Respondent present and any relevant witnesses called. The Complainant and the Respondent both have the option to have a Support Person present. For Grievances on discharge for cause, the Complainant also has the option to be represented by a privately-engaged attorney at the Step 2 hearing if they declare such intention at the time they file their initial Grievance. Step 2 also provides an opportunity for the Respondent to formally reply to any recommendations made by the Committee favorable to the Complainant resulting from the hearing process. In such instance, if the Complainant is not satisfied with the Respondent’s reply to the Committee’s recommendations, the matter is automatically referred to Step 3 unless the Complainant chooses to otherwise withdraw the Grievance. In the event the Committee makes no recommendations favorable to the Complainant or otherwise does not find a basis for the Grievance, the Complainant has the opportunity if desired to pursue an appeal to Step 3 of the process within ten (10) calendar days of receiving the Committee’s report.

3. "Step 3" provides an opportunity for the Chancellor to review the matter(s) in dispute. No new evidence is introduced in Step 3, but rather, it is a consideration of all information already on record from Steps 1 and 2 of the process. If the Chancellor does not accept a recommendation from the Grievance Committee that was in favor of the Complainant and this step does not otherwise result in a resolution that satisfies the Complainant, the Complainant has the opportunity to pursue their appeal to Step 4 of the process within fourteen (14) calendar days of receipt of the Chancellor's decision. If there is no recommendation from the Committee in favor of the Complainant at Step 2, the process ends at Step 3 and the decision of the Chancellor is final.
4. "Step 4" provides an opportunity for the Chair of the Board of Trustees to review the matter(s) in dispute in the sole event that the Chancellor does not accept a recommendation from the Grievance Committee that was in favor of the Complainant. No new evidence is introduced in Step 4, but rather, it is a consideration of all information already on record from Steps 1 through 3 of the process. The decision of the Board of Trustees is final.
- b. The University's Office of Human Resources shall publish and update as necessary specific procedures by which the steps of the grievance process are carried out by all of the parties. This office shall also designate a Grievance Coordinator who shall be available to explain and answer questions regarding the grievance process and procedures to the Complainant and other involved parties. The preparation of a Grievance and the presentation of such Grievance at any hearing is the specific responsibility of the Complainant.

6. SCOPE OF GRIEVANCE PROCESS

Grievances submitted at all steps of this process are subject to the standards set out below, which define matters which may or may not be reviewed under this policy. A University official may choose to offer a proposed resolution to a dispute without such offer conferring jurisdiction under this Policy where such jurisdiction is not otherwise present.

- a. *Matters the Committee can review shall be limited to claims in regard to:*
 1. Contested discharge for cause.
 2. Alleged violations of the employee's rights guaranteed by the First Amendment to the United States Constitution or Article I of the North Carolina Constitution (subject to any limitations on political activity as established under North Carolina law and relevant UNC Board of Governors and University Board of Trustees policies).
 3. Harassment or discrimination as set forth in the University's Policy on Prohibited Harassment and Discrimination.
 4. Discontinuation without appropriate notice or without temporary extension of appointment in the absence of such notice as provided for in the EPA non-faculty Employment Policies.

5. Any other decision or action by a University official that adversely and materially affected the Covered Employee's terms and conditions of employment and that is alleged to have violated a specific university rule, regulation, or policy or violated a state or federal law pertaining to the employment relationship between the Complainant and the University.

6. Retaliation as defined in Policy Section 3.

b. *Matters outside the scope of the Committee's review:*

1. Dissatisfaction by a Covered Employee with the general application of a University, School/College or Department policy, regulation, or practice or with a University official's decision-making on the grounds it is undesirable or inadvisable absent a specific action over which the Committee has jurisdiction under Policy Section 6.a., above.
2. Discontinuation with notice, non-renewal, non-reappointment, or non-extension of an EHRA non-faculty appointment, unless the Complainant sufficiently alleges that the decision was based on a factor reviewable under Policy Section 6.a., above. Absent such a demonstration by the employee, the Committee has no jurisdiction to review the general advisability or soundness of a University official's decisions.
3. Terminations of employment because of the exercise of a funding contingency or financial exigency or program curtailment or elimination.
4. Complaints, grievances or appeals that are exclusively subject to another University procedure or are exclusively within the scope of another University committee such as intellectual property determinations, research ethics, Campus Police trespass appeals, parking appeals or assignments, and health and safety concerns. The outcome of such matters may be presented to and considered by the Grievance Committee when they have a direct relevance to a matter which otherwise is within the scope of the Grievance process subject to the specific disclosure and confidentiality rules of the other University procedure or committee.

7. GRIEVANCE FILING DEADLINE; COORDINATION WITH OTHER DISPUTE RESOLUTION PROCESSES

- a. *Grievance Submission and Deadline:* A Covered Employee must submit a completed "EHRA Non-Faculty Grievance Form" to the Grievance Coordinator no later than thirty (30) calendar days from the date of the specific action giving rise to the Grievance. If there are multiple related actions in dispute, the Grievance must be filed no later than thirty (30) calendar days following the last or most recent of such actions. Once a Grievance is filed, claims regarding subsequent actions by the Respondent that are substantially similar to those already in the original Grievance will not serve to further extend the submission deadline nor may they be the subject of additional Grievances. At the sole option of the Committee/Panel, such subsequent actions may be consolidated into the Grievance already filed by the Complainant.

- b. *Late Filing:* If the Grievance Coordinator determines a Grievance is not filed within the submission deadline, the Coordinator shall notify the Complainant of this fact and the Grievance shall not continue. The Chair has the discretion to extend the filing period if s/he determines that unusual and extenuating circumstances warrant such an extension, provided that the Complainant requests the extension before the end of the normal filing period, except as provided below. The Chair's decision on extensions of the filing period is final and cannot be appealed.
- c. *Accessing Other Means of Dispute Resolution:* Covered Employees are encouraged to seek informal resolution of employment-related disputes through the University's Structured Mediation Program administered by the Office of Human Resources and/or the University Ombuds Office prior to seeking formal resolution under this policy. In matters involving prohibited harassment and discrimination, employees are encouraged to seek resolution first through the administrative review process as provided under the University's Policy on Prohibited Harassment and Discrimination.
 - 1. *Office of Human Resources Structured Mediation:* For issues other than discharge for cause, a Covered Employee who requests a structured mediation through the Office of Human Resources within thirty (30) calendar days of a specific action or decision that gives rise to a Grievance is provided an extension of the normal Grievance submission deadline. This extension enables the employee to file a Grievance within ten (10) calendar days following completion of the mediation by the Office of Human Resources or the normal Grievance filing deadline established in Policy Section 7.a. above, whichever shall be later. If the employee does not make use of the structured mediation program within the timeframe noted, the normal Grievance submission deadline shall apply. Documentation from the Office of Human Resources confirming the mediation and establishing the relevancy of the mediation to a Grievance must be included with the Grievance filing in order to utilize the extended deadline.
 - 2. *Administrative Review Process for Prohibited Harassment and Discrimination:* A Covered Employee who initiates a complaint under the administrative review process of the University's Policy on Prohibited Harassment and Discrimination within thirty (30) calendar days of a specific action or decision that gives rise to the Grievance is provided an extension of the normal Grievance submission deadline. This extension enables the employee to file a Grievance within ten (10) calendar days following completion of the administrative review process. Should a Grievance not be brought within this deadline, the administrative review process remains available as provided under the Policy on Prohibited Harassment and Discrimination, but without further recourse of this Grievance procedure. A copy of the completed administrative review must be included with the Grievance filing in order to utilize the extended deadline. If the provisions of Policy Section 7.c.1. are exercised in combination with provisions of Policy Section 7.c.2., the single longest applicable extension in favor of the employee shall apply, but the deadline extensions shall not be combined in any manner.

- d. *Permitted Delay of Grievance Procedure Pending Other Related Matters or Inquiries:* The Chair of the Grievance Committee may, at his/her discretion and upon written notice to the Complainant and the Respondent, delay the consideration of any Grievance filed under this Policy pending resolution of another University investigation, review, inquiry or proceeding when the outcome is estimated to have a material effect on the outcome of the Grievance. In no case shall such a delay extend beyond a period of one hundred eighty (180) calendar days unless approved by the Chancellor or his/her designee.

8. GRIEVANCE COMMITTEE AND CONDUCT OF BUSINESS

- a. *Composition:* The Grievance Committee is composed of ten (10) EHRA non-faculty employees of the University who are Covered Employees under this policy appointed by the Chancellor on the recommendation of the Vice Chancellor for Human Resources. The Chancellor will also designate two appointed members as the Chair and Vice Chair. The Vice Chair will carry out the duties of the Chair if the Chair shall be unavailable for any reason.
- b. *Terms of Appointment:* All members of the Committee, including the Chair and Vice Chair, will serve three (3) year staggered terms and such individuals may be reappointed for additional terms by the Chancellor as deemed appropriate. The members designated as the Chair and Vice Chair shall serve a two (2) year term in these specific capacities in addition to their regular committee membership and may be reappointed to these positions by the Chancellor as deemed appropriate.
- c. *Replacement of Members:* Any member who is unable to continue his/her term will be replaced for the remainder of his/her term by a new member appointed by the Chancellor. The Chancellor may also remove a member of the Committee if, in the Chancellor's judgment, the member is unable to carry out his/her responsibilities in accordance with this Policy or if the member is no longer a Covered Employee under this Policy.
- d. *Conduct of Business:* Any business of the Grievance Committee may be conducted by the Committee as a whole or as a three (3) member Panel at the discretion of the Chair. A majority of members of the Committee or of a Panel, as applicable, must be in attendance in order for business to be conducted or evidence to be heard and considered. The Chair will be responsible for the conduct of any Committee meetings. When a Panel is convened, a panel member will be designated by the Committee Chair as the Panel Lead and will be responsible for the conduct of all Panel meetings. If the Committee Chair is serving on the Panel, he/she may serve as the Panel Lead. In the event a member of a convened Panel shall become unavailable for any reason, the Committee Chair shall designate a new member to the Panel in replacement.
- e. *Conflicts of Interest:* Any Committee member who has a direct or potential conflict of interest in any Grievance shall disclose the conflict to the Chair. If the Chair has a conflict, s/he shall disclose it to the Grievance Coordinator, and the Vice Chair shall serve in his/her place for the Grievance in question. Conflicts of interest may include having a personal relationship with a party to the Grievance or having had a role in the decision-making or actions that related to the Grievance. In such instances, the Committee member will be removed from any participation in the matter for which the conflict exists.

9. GRIEVANCES FILED OR IN PROGRESS BY INDIVIDUALS SUBJECT TO TERMINATION OR SUSPENSION OR TO EXPIRATION OF A TERM APPOINTMENT

- a. Grievances that are filed or in progress by a Covered Employee who is pending discharge for cause or suspended with or without pay may be temporarily put on hold at the discretion of the Chancellor or his/her designee pending the decision to discharge or suspend. If a Covered Employee is discharged for cause and files a Grievance for discharge, than any other Grievances filed or in progress for matters unrelated to the discharge will be dismissed.
- b. Grievances that are filed or in progress by a Covered Employee whose University employment is subject to a fixed term appointment and whose appointment expires before resolution of the Grievance may be dismissed unless resolution of the Grievance in the Covered Employee's favor would otherwise result in an extension or renewal of his/her appointment. Likewise, Grievances will be dismissed in the same manner when brought by either an at-will or fixed-term employee who has been otherwise notified of discontinuation of his/employment under the Employment Policies unless resolution of the Grievance in the Covered Employee's favor would otherwise result in his/her continued employment.

10. SUPPLEMENTAL FORMS AND PROCEDURES TO THIS POLICY

The Office of Human Resources shall publish on its publicly accessible web site, and update as appropriate, the following documents that facilitate the Grievance process. These documents shall also be made available in printed form to any Covered Employee on request:

- a. Procedures, by which any Grievance shall be pursued and handled by all parties to such a Grievance.
- b. Grievance Form, which must be used by Complainants to initiate Grievances under this process.
- c. Respondent Reply Form, which must be used by Respondents during the process.
- d. Complainant Reply Form, which must be used by the Complainant to reply to decisions during this process.
- e. A graphical representation (flow chart) of the Grievance process to aid all parties in understanding relevant deadlines and the various steps provided by the process.

11. POLICY EFFECTIVE DATE

This policy is effective October 1, 2009.

12. REVISION HISTORY

Revision 1 effective Oct. 13, 2009: A technical correction was implemented to the policy to reflect EPA Professional Librarians as being subject to the grievance procedures for General Faculty and not the procedures set forth for other EHRA non-faculty employees on advice from the Office of University Counsel. Sections 2.f. and 4. were revised accordingly.